REMARKS

Applicants' attorney thanks the Examiner for her comments. No existing claim has been amended. New Claims 34-40 have been added. No new matter has been added by this amendment. No additional claim fees are due at this time since the number of independent claims and the total number of claims remains less than previously paid.

Independent Claims 1, 13, 14 and 15 have not been amended to preserve rights for appeal. New Claim 34 recites the topsheet does not comprise foam, as supported on page 20, lines 14-18 and MPEP § 2173.05(i), for example. New Claim 35 recites the topsheet is selected from the group consisting of apertured plastic films, natural fibers, synthetic fibers and combinations thereof, as supported on page 20, lines 14-18, for example. New Claim 36 recites laminating with adhesive containment flaps having elastic materials and an upright, perpendicular configuration along the entire length of the liquid retention structure, as supported on page 16, lines 1-10 and page 30, lines 13-30, for example.

New independent Claim 37 recites the steps of producing an absorbent article, according to FIGS. 2-4, page 28, line 1 to page 31, line 9 and Claim 1, for example. Claim 37 particularly reads on the elected species in the election in response to the Restriction Requirement.

New Claim 38 recites a substantially hydrophilic tissue wrapsheet, as supported on page 25, lines 15-17, for example. New Claim 39 recites substantially hydrophobic topsheet material, as supported on page 21, lines 3-6, for example. New Claim 40 recites the affixing includes an adhesive, as supported on page 27, line 6, for example.

Claim Rejection Based On Litchholt

The rejection of Claims 1, 3, 4, 6, 11-15, 28-29 and 32-33 under 35 U.S.C. § 102(b) as being anticipated by, or under 35 U.S.C. § 103(a) as being obvious over U.S. Patent 5,503,919 ("Litchholt") is respectfully traversed.

Applicants' Claims 1, 13, 14 and 15 to recite the step of affixing elastic strands in an untensioned state to the necked precursor garment. The Examiner cites Litchholt for allegedly disclosing a zero strain stretch laminate. Litchholt actually discloses a laminate made from an elastomeric adhesive foam. Litchholt is directed to the

process of making a laminate as shown in Fig. 2 and has elastic properties in the entire laminate 30. This is not Applicants' method of making an absorbent article with an elastic cuff area and necked substrates. Applicants' process selectively applies **elastic strands** in an untensioned state to discrete and specific cuff regions as shown in FIG. 1. In contrast, Litchholt produces a foam material that allegedly claims elasticity for use in entire panels (*see*, column 22, lines 29-31).

The Examiner on page 4 of the Office Action equates the "distorted configuration" of Litchholt with Applicants' necking. Applicants respectfully disagree. Applicants' necking tension and neckable materials are a controlled drawing force that upon removal allows the material to pull back or relax to or near its original width (*see*, page 9, line 7 to page 10, line 20). In contrast, Litchholt's process is "upon mechanical stretching, be at least to a degree **permanently** elongated such that it will **not fully return** to its original **undistorted** configuration." (Column 26, lines 33-38, emphasis added). Put another way forces required for permanent distortion exceed forces for necking.

Specifically regarding the use of elastic strands in cuffs, Litchholt states that "the elasticized leg cuff additionally comprises an elastic gasketing cuff with one or more **elastic strands** positioned outboard of the barrier cuff such as described in the above referenced U.S. Pat. No. 4,695,278." (Column 28, lines 17-21, emphasis added). U.S. Patent 4,695,278 ("Lawson") is incorporated by reference on column 23, lines 3-6 of Litchholt. Litchholt does not teach or suggest any other method of attaching **elastic strands**. The Examiner is not considering Applicants' explicit recited claim language, "strands of elastic material in an untensioned state". Lawson allegedly discloses an absorbent article having dual cuffs and on column 7, lines 40-48 states that a suitable method for manufacture is disclosed in U.S. Patent 4,081,301 ("Buell") which is titled "Method And Apparatus For Continuously Attaching **Discrete, Stretched Elastic Strands** To **Predetermined Isolated Portions** Of Disposable Absorbent Products." (Emphasis added).

Lawson does not teach or suggest any other method of attaching elastic strands to the cuffs of Litchholt. Buell only discloses applying elastic strands that are stretched by three metering rolls before being applied (*see*, specification and Claim 17). This is not Applicants' process of using elastic strands in an untensioned state for a simpler manufacturing method. Litchholt only teaches applying stretched **elastic strands** by the

incorporation of Lawson and Buell. Put another way by incorporating teachings that elastic strands are applied only when stretched, Litchholt *teaches away* from Applicants' method of affixing elastic strands in an untensioned state. Litchholt does not teach or suggest elastic strands in another method or configuration for leg elastics (Applicants' Claim 15) or elsewhere.

The foam of Litchholt is comprised of an elastomeric adhesive. In contrast, Applicants' elastic strands are not an adhesive and are attached by adhesive or bonding.

Therefore, one skilled in the art would not have a motivation or an expectation of success to modify Litchholt to arrive at Applicants' elastic strands applied in untensioned state based on the stretched elastic strands of Litchholt, Buell and Lawson.

Regarding Applicants' new claims, Litchholt does not disclose or suggest the topsheet not including a foam (Claims 34 and 35) since Litchholt is directed to an adhesive foam in diaper construction.

Regarding containment flaps (Claim 36), Litchholt does not disclose or suggest containment flaps adhesively attached having elastic materials and an upright, perpendicular configuration along the entire length of the liquid retention structure in an intermediate section of the diaper. In contrast Litchholt discusses barrier flaps as part of the leg cuff assembly. *See* column 27, line 59 to column 28, line 21. The leg cuff assembly does not extend along the entire length of the liquid retention structure. *See* Fig. 3 clearly showing the leg cuff 32 (lacking flaps) being shorter than the absorbent core 28. In contrast Applicants' FIGS. 1, 3 and 4 show the containment flaps 46 extending the entire longitunal length of the absorbent article. Litchholt does not disclose or suggest Applicant's containment flaps as required for a case of anticipation and/or obviousness.

Regarding the absorbent article method (Claim 37), Litchholt does not disclose or suggest Applicants' steps related to the spacer layer, surge management layer, and containment flaps.

Regarding the substantially hydrophilic tissue wrapsheet (Claim 38), Litchholt is silent regarding hydrophilic. Regarding the substantially hydrophobic topsheet (Claim 39), Litchholt is silent regarding hydrophobic. Regarding affixing the elastic strands with an adhesive (Claim 40), Litchholt discloses an elastic adhesive foam, so one skilled in the art would not expect to use a separate adhesive to affix the elastic strands.

For at least the above reasons, no claim is anticipated or rendered obvious by Litchholt. Accordingly, this rejection should be withdrawn.

Conclusion

Applicants believe that the claims, as presented, are in condition for allowance. If the Examiner detects any unresolved issue, then Applicants' attorney respectfully requests a telephone call from the Examiner, and a telephone interview.

Respectfully submitted,

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